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|-----------------|-------------|----------------------|---------------------|------------------|
| 08/849,525      | 08/29/1997  | GHITA LANZENDORFER   | 435-WCG             | 3976             |

7590 10/07/2003

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| EXAMINER |
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SHARAREH, SHAHNAM J

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| ART UNIT | PAPER NUMBER |
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1617

DATE MAILED: 10/07/2003

31

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

08/849,525

Applicant(s)

LANZENDORFER ET AL.

Examiner

Shahnam Sharareh

Art Unit

1617

--The MAILING DATE of this communication appears on the cover sheet with the correspondenc address --

THE REPLY FILED 22 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 28 July 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ \_\_\_\_\_ and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 19-33.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

**RUSSELL TRAVERS**  
PRIMARY EXAMINER

Continuation of 2. NOTE: claims 32 is amended and changes the scope of pending claim, thus, requiring further consideration. Applicant's Amendment is also inconclusive. Applicant's amendment seems to raise a new 112 2nd issue. At page 8, lines 1-2 of the amendment, Applicant asserts that claim 31 is amended, however, the amended claims appear to be claim 32. .

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments are directed to claims after they are amended following a final rejection. Thus, claims 32-33 are rejected for the reasons of record. With respect to claims 19-28, Applicant argues that the secondary reference of Middleton provide a teaching away from the primary reference of N'Guyen. In response, Examiner states that the rejection is based on combined teachings of the references. As provided in previous Office Action, Middleton teaches topical administration of flavonoids. In fact, Applicant's arguments does not give any weight to the teachings of Harrisson and how solar radiation causes immunesuppression. Finally, the scope of instant claims are not directed to any specific path of immunosupression, therefore, any attenuation of immune system would meet the instant limitation of "immunosuppression," and the combined teachings of the references meet such limitation.